



Paper No. 15

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**OFFICE OF PETITIONS
A/C PATENTS ✓**

In re Application of
Stender, et al.
Application No. 08/943,777
Filed: October 3, 1997
Attorney Docket No. 35853.1

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ON PETITION

This is a decision on the petition, filed November 4, 1999, under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.183 to waive the requirement for compliance with the Sequence Rules (37 CFR 1.821-1.825) with respect to the peptide nucleic acids (PNA's) disclosed in the instant specification.¹

The petition is granted.

The instant application papers were deposited October 3, 1997. However, on December 9, 1997, the Office mailed a Notice To File Missing Parts of Application Filing Date Granted, and required applicants to comply with the Sequence Rules.

During the ensuing examination, in the July 1, 1999 Office action, applicants were again required to comply with the Sequence Listing requirements of 37 CFR 1.821 through 1.825. In response the instant petition was filed in which petitioner explains why PNA's are not, in petitioner's' opinion, suitable for sequence listings.

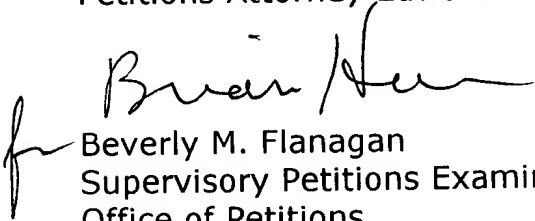
¹ As noted in MPEP 2421.01, an applicant may, in exceptional circumstances, request relief from the Sequence Rules pursuant to 37 CFR 1.183. Petition seeking waiver of the rules under 37 CFR 1.183 are decided by the Office of Petitions. MPEP 1002.02(b), ¶ 2.

Inspection of the instant petition reveals that petitioners have advanced several arguments in support of their contention that PNA's *per se* do not fall within the scope of materials envisioned by the Sequence Rules, and further, that PNA's as disclosed herein are adequately retrievable by search techniques not dependent on the additional information that would be supplied by requiring sequence listings.

Under the extraordinary circumstances of this application, the interests of justice would be served by suspending the rules to the extent that they may require the instant application to comply with the Sequence Rules with respect to the PNA's.

This file is being returned to Technology Center 1600.

Telephone inquiries relevant to this decision should be addressed to Petitions Attorney Edward Tannouse at (703) 306-9200.

A handwritten signature in black ink, appearing to read "Beverly M. Flanagan", is written over the printed name and title.

Beverly M. Flanagan
Supervisory Petitions Examiner
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for Patent Examination Policy